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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/082,344	02/26/2002	David Langtry	84822-602 ADB	1681
23529	7590	11/03/2003	EXAMINER	
ADE & COMPANY 1700-360 MAIN STREET WINNIPEG, MB R3C3Z3 CANADA			NOVOSAD, JENNIFER ELEANORE	
			ART UNIT	PAPER NUMBER
			3634	

DATE MAILED: 11/03/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/082,344

Applicant(s)

LANGTRY, DAVID

Examiner

Jennifer E. Novosad

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 August 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 20-22 and 26-34 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 31 and 34 is/are allowed.
- 6) ☒ Claim(s) 20-22, 26-30, 32, and 33 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☒ The proposed drawing correction filed on 12 August 2003 is: a) ☒ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

This Office action is in response to the amendment filed August 12, 2003 (Paper No. 8).  
*Accordingly*, claim 1-19 and 23-25 have been canceled and claims 27-34 have been added.

#### ***Drawings***

The proposed drawing corrections were received on August 12, 2003 (Paper No. 8).  
These drawing corrections are approved.

#### ***Claim Objections***

Claims 20, 27, and 31 are objected to because of the following informalities:  
In line 28 of claim 20, and line 27 of claims 27 and 31, a --;-- (semi-colon) should be inserted after "beam".

Appropriate correction is required.

#### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 22, 29, 32, and 33 are newly rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 22, 29, and 33 recite the limitation "each stiffener member". There is insufficient antecedent basis for this limitation in the claim. *To correct this*, it appears that "20" in line 1 of

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claim 22 should be changed to --21--, "27" in line 1 of claim 29 should be changed to --28--, and "31" in line 1 of claim 33 should be changed to --32--.

Claim 32 is rendered indefinite since the structural relationship between the transverse wires, set forth in claim 31, and the stiffener members of claim 32 is unclear, i.e., it is unclear whether these are the same elements. *To correct this*, it appears that in line 1 of claim 32, --the transverse wires of-- should be inserted after "wherein". Further, in line 2 of claim 32, "includes" should be changed to --include--.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 20-22, 26, and 27-30 (*insomuch as claims 22 and 29 are best understood, in view of the Section 112 rejection as advanced above*), are rejected under 35 U.S.C. 103(a) as being unpatentable over Pfeiffer *et al.* '158 in view of Linden *et al.* '623.

Pfeiffer *et al.* '158 disclose a shelving rack comprising a frame structure including two generally vertical rear legs (11) and two generally vertical front legs (11) with the front legs arranged at a front (Figure 2) of the rack and spaced by a width of the rack and the rear legs arranged at the rear of the rack and spaced by the width of the rack, the front legs being spaced from the rear legs by a depth of the rack (Figure 1); a plurality of shelves (14 and 20 at the front and rear are considered to define the shelf) arranged above one another and each having a depth

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between a front edge and a rear edge substantially equal to the depth of the rack; each shelf being supported at the front edge by a respective one of a plurality of front transverse shelf support beams (12) connected across the front legs (11) so the weight from the front edge of each shelf is carried by the front legs; each shelf having a shelf plane being inclined upwardly and rearwardly from the front edge toward the rear edge (see Figure 1); each shelf being supported at the rear edge by a respective one of a plurality of rear transverse shelf support beams (12) connected across the rear legs (11) so the weight from the rear edge of each shelf is carried by the rear legs; each of the front support beams including a front support receptacle (see Figure 4) for the respective edge of the respective shelf, each front support receptacle being formed by a horizontal surface and a rearwardly facing vertical surface forming a right angle therebetween; each of the rear support beams including a rear support receptacle for the respective edge of the respective shelf, each rear support receptacle being formed by a horizontal surface and a forwardly facing vertical surface forming a right angle therebetween; the front edge (adjacent 20) of each shelf engaging *into* the respective front support receptacle of the respective front support beam; each shelf having at the rear edge thereof a downwardly turned rear edge portion (20) extending across the width of the shelf and arranged at an *angle* to the shelf plane (see Figure 4) so as to extend downwardly from the shelf plane *into* the respective rear receptacle of the respective rear support beam; and each rear support beam is located at a height above the respective front support beam; each of the shelves including a plurality, i.e., two, of stiffener members (24) extending from the front edge to the rear edge and being arranged at positions across the width of the rack. *With respect to claim 27*, each shelf being bent adjacent a rear edge thereof to form a downwardly turned rear edge portion extending across the width of the shelf

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and arranged at an angle to the shelf plane so as to extend downwardly from the shelf plane; and each shelf having the rear edge thereof at the bottom of the rear edge portion engaging into the respective rear receptacle of the respective rear support beam.

The claims differ from Pfeiffer *et al.* '158 in requiring each shelf to have a width substantially equal to the width of the rack.

Linden *et al.* '623 teach a rack comprising a shelf that has a width substantially equal to the width of the rack.

*Accordingly*, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided the rack of Pfeiffer *et al.* '623 with a shelf having a width substantially equal to the width of the rack, for ease in use to the consumer since assembly of the rack would be diminished.

#### ***Allowable Subject Matter***

Claims 31 and 34 are allowed and claims 32 and 33 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action.

The following is a statement of reasons for the indication of allowable subject matter: The prior art of record fails to show or suggest a shelving rack which comprises each shelf to be formed from wire mesh with longitudinal wires across the depth and transverse wires across the width thereof whereby the longitudinal wires are bent adjacent a rear edge of the shelf thereby forming a downwardly turned rear edge portion so that the bottom thereof engages into the rear receptacle (see last 7 lines of the claim), as specifically called for in the claimed combination of claim 31.

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***Response to Arguments***

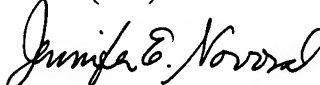
Applicant's arguments with respect to claims 1-26 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jennifer E. Novosad whose telephone number is (703)-305-2872. The examiner can normally be reached on Monday-Thursday, 5:30am-4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on (703)-308-2686. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)-308-1113.

  
Jennifer E. Novosad  
Examiner  
Art Unit 3634

Jennifer E. Novosad/jen  
October 30, 2003